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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/806,356 | 03/29/2001 | Jens Kircher | 1504 | 1171 |
| 7590 | 10/10/2003 | | EXAMINER | |
| Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743 | | | BROWN, VERNAL U | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2635 | |
| DATE MAILED: 10/10/2003 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/806,356 | KIRCHER, JENS | |
| | Examiner | Art Unit | |
| | Vernal U Brown | 2635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 March 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 March 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4,5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The application of Kircher, J for Method For Constructing A Data Connection Between a Home Automation System and a Data Terminal filed 03/29/2001 has been examined. Claims 1-17 are pending.

Specification

The abstract of the disclosure is objected to because the abstract contains more than one paragraph. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: Steps 30-34 of the flow chart in figure 2 are not disclosed in the specification. Appropriate correction is required.

Drawings

The drawings are objected to because the steps shown on the flow chart are described. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 9, 10, 12-14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. U.S Patent 5909183 in view of Hashimoto et al. U.S Patent 5554980.

Regarding claims 1 and 9, Borgstahl et al. teaches a method for constructing a data connection between an integrated household control system (figure 1) and a mobile data terminal (34) located outside the base of the integrated household control system (col. 5 lines 38-44). Borgstahl et al. teaches communication between the data terminal and the household control system formed by the device 20 is based on proximity (col. 5 lines 43-45) which further represents the automatic construction of the data connection with the integrated household control system if one reaches a predetermined region surrounding the household control base. Borgstahl et al. is however silent on teaching the data terminal is coupled with a position determining device. Hashimoto et al. in an art related remote control system teaches a data terminal in the form of a remote control (1) that includes a position determining device (col. 35 lines 34-36).

It would have been obvious to one of ordinary skill in the art to couple the data with a position determining device in Borgstahl et al. as evidenced by Hashimoto et al. because Borgstahl et al. suggests a data terminal coupled to a means for determining the proximity of a data terminal to an appliance in a home network and Hashimoto et al. teaches a positioning determining device in a data terminal in order to generate control information to the home appliance.

Regarding claim 2, Borgstahl et al. teaches the data connection between the data terminal and the integrated household control system is constructed via a mobile radio network (col. 5 lines 38-41).

Regarding claim 3, Borgstahl et al. teaches the data connection between the data terminal and the integrated household control system is constructed via the internet (col. 9 lines 62-66).

Regarding claim 4, Borgstahl et al. teaches the household control system transmits alarms to the controller (col. 15 line 65-col. 16 line 3). The communication between the household control system and the data terminal is based on a request followed by a response protocol as shown in figure 21 (data is not simultaneously transmitted from the household control system and the data terminal). Therefore data is transmitted from the household control system to the data terminal when there is no existing connection in the opposite direction.

Regarding claim 6, Borgstahl et al. teaches the use of a peer-to-peer device as the data terminal (col. 5 lines 42-45) and further teaches the use of a computer as the peer-to-peer device (col. 4 lines 1-4). Borgstahl et al. therefore teaches the use of a computer as a data terminal.

Regarding claims 10 and 17, Borgstahl et al. teaches the use of a mobile (portable) device communicating with the household control system based on proximity (figure 1) but is silent on teaching as least one component of a mobile station serves as the position determining device. Hashimoto et al. in an art related remote control system teaches a data terminal in the form of a remote control (1) that includes a position determining device (col. 35 lines 34-36).

It would have been obvious to one of ordinary skill in the art to couple the data with a position determining device in Borgstahl et al. as evidenced by Hashimoto et al. because Borgstahl et al. suggests a data terminal coupled to a means for determining the proximity of a data terminal to an appliance in a home network and Hashimoto et al. teaches a positioning determining device in a data terminal in order to generate control information to the home appliance.

Regarding claims 12 and 16, Borgstahl et al. teaches a method for constructing a data connection between an integrated household control system (figure 1) and a mobile data terminal (34) located outside the base of the integrated household control system (col. 5 lines 38-44). Borgstahl et al. teaches communication between the data terminal and the household control system formed by the device 20 is based on proximity (col. 5 lines 43-45) which further represents the automatic construction of the data connection with the integrated household control system if one reaches a predetermined region surrounding the household control base. Borgstahl et al. is however silent on teaching the data terminal is coupled with a position determining device. Hashimoto et al. in an art related remote control system teaches a data terminal in the form of a remote control (1) that includes a position determining device (col. 35 lines 34-36).

It would have been obvious to one of ordinary skill in the art to couple the data with a position determining device in Borgstahl et al. as evidenced by Hashimoto et al. because Borgstahl et al. suggests a data terminal coupled to a means for determining the proximity of a data terminal to an appliance in a home network and Hashimoto et al.

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teaches a positioning determining device in a data terminal in order to generate control information to the home appliance.

Regarding claim 13, Borgstahl et al. teaches the data terminal (34) communicating with the household control system based on proximity (col. 5 lines 38-44) and the remote device send data to the household control system (20) as shown in task 96 and task 98 of figure 10. Borgstahl et al. further teaches an example of a remote device controlling an appliance in which the remote controller displays available commands and the corresponding icons associated with the commands (col. 16 lines 24-27). The computer program that allows the display of the available command is considered a browser and Borgstahl et al. further teaches communication by the internet col. 9 lines 62-66).

Regarding claim 14, Borgstahl et al. teaches a wireless network (col. 3 lines 65-67) and mobile (portable) station (col. 4 lines 41-45).

Claims 5, 7, 8, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. U.S Patent 5909183 in view of Hashimoto et al. U.S Patent 5554980 and further in view of Joao U.S Patent 5917405.

Regarding claims 5 and 7, Borgstahl et al. in view of Hashimoto et al. teaches the use of a computer as a data terminal (col. 4 lines 1-4) but is silent on teaching the mobile

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data terminal is disposed in a motor vehicle and also serve to control motor vehicle function. Joao in an art related control system invention teaches a mobile data terminal (figure 1) disposed in a vehicle and control vehicle function and household appliance (col. 5 lines 52-67).

It would have been obvious to one of ordinary skill in the art for the mobile data terminal is disposed in a motor vehicle and also serve to control motor vehicle function in Borgstahl et al. in view of Hashimoto et al. as evidenced by Joao because Borgstahl et al. in view of Hashimoto et al. teaches the use of a computer as a data terminal and Joao teaches a mobile data terminal disposed in a vehicle and control vehicle function and household appliance.

Regarding claims 8 and 15, Borgstahl et al. in view of Hashimoto et al. teaches the use of a data terminal to transmit control information (figure 21) but is silent on teaching an Internet telephone serves as the data terminal. Joao in an art related control system invention teaches the use of a telephone as a data terminal (col. 3 lines 56-60) for connecting to a household control system.

It would have been obvious to one of ordinary skill in the art to have a telephone serve as the data terminal in Borgstahl et al. in view of Hashimoto et al. as evidenced by Joao because Borgstahl et al. in view in view of Hashimoto et al. suggests the use of a data terminal to transmit control information to household control system and Joao teaches the use of a telephone as a data terminal for connecting to a household control system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patent is cited to further show the state of the art with respect to data terminal with a position determining device for controlling devices in a home (col. 146 lines 58-60).

U.S Patent 6400996 to Hoffberg et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U Brown whose telephone number is 703-305-3864. The examiner can normally be reached on M-Th, 8:30 AM-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 703-305-4704. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.



Vernal Brown
September 26, 2003

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

